

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JOSEPH RODRIGUEZ,
Plaintiff,

v.

COMMISSARY STAFF,
Defendant.

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CIVIL ACTION NO. 19-CV-0736

FEB 25 2019

KATE BARNHART
Clerk

ORDER

AND NOW, this 25th day of February, 2019, upon consideration of *pro se* Plaintiff Joseph Rodriguez's Motion for Leave to Proceed *In Forma Pauperis* (ECF No. 1), Prisoner Trust Fund Account Statement (ECF No. 3), and Complaint (ECF No. 2), it is **ORDERED** that:

1. Leave to proceed *in forma pauperis* is **GRANTED**.
2. Rodriguez, #NJ-5298, shall pay the full filing fee of \$350.00 in installments, pursuant to 28 U.S.C. § 1915(b). Based on the financial information provided by Rodriguez, an initial partial filing fee of \$36.02 is assessed. The appropriate official at SCI Phoenix or at any other prison at which Rodriguez may be incarcerated is directed to deduct \$36.02 from Rodriguez's inmate trust fund account, when such funds become available, and forward that amount to the Clerk of the United States District Court for the Eastern District of Pennsylvania, 601 Market Street, Room 2609, Philadelphia, PA 19106, to be credited to Civil Action No. 19-736. After the initial partial filing fee is collected and until the full filing fee is paid, the appropriate official at SCI Phoenix or at any other prison at which Rodriguez may be incarcerated, shall deduct from Rodriguez's account, each time that Rodriguez's inmate trust fund account exceeds \$10.00, an amount no greater than 20 percent of the money credited to his account during the preceding month and forward that amount to the Clerk of Court at the address provided above to be credited to Civil Action No. 19-736.

3. The Clerk of Court is **DIRECTED** to send a copy of this Order to the Superintendent of SCI Phoenix.

4. The Complaint is **DEEMED** filed.

5. The Complaint is **DISMISSED without prejudice** for failure to state a claim, pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for the reasons set forth in the Court's Memorandum.

6. Rodriguez is given leave to file an amended complaint within thirty (30) days of the date of this Order if he can state a plausible claim for relief against a proper defendant. Any individual or entity that is not listed in the caption of the amended complaint will not be treated as a defendant. Any amended complaint must be a complete document that describes in detail the basis for Rodriguez's claims against each defendant. If Rodriguez does not know the identity of any of the individuals responsible, he may refer to them as Jane or John Does; however, Rodriguez must still describe how these individuals violated his rights.¹ If Rodriguez files an amended complaint, the Clerk shall not make service until so **ORDERED**.

7. The Clerk of Court is **DIRECTED** to send Rodriguez a copy of this Court's form complaint to be used by a prisoner filing a civil rights action pursuant to 42 U.S.C. § 1983. The Clerk of Court shall write the civil action number of this case on the form. Rodriguez may use this form to prepare his amended complaint.

8. If Rodriguez fails to file an amended complaint, his case may be dismissed without prejudice for failure to prosecute without further notice.

BY THE COURT:



PETRESE B. TUCKER, J.

¹ Without the name of at least one individual or entity, however, the Court will be unable to direct service of any amended complaint that Rodriguez may file.